

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 21, 2003 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Jim Keane, Vice Chairman (D)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Rep. Bob Bergren (D)  
Rep. Rod Bitney (R)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Ray Hawk (R)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Gary Matthews (D)  
Rep. Scott Mendenhall (R)  
Rep. Penny Morgan (R)  
Rep. Allen Rome (R)  
Rep. Sandy Weiss (D)  
Rep. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Alberta Strachan, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 347; HB 323; HB 331; HB 338  
Executive Action: HB 285; HB 196; HB 271; HB 314

**HEARING ON HB 347**

**Sponsor:** REP. EILEEN J. CARNEY, HD 82, Libby

**Opening Statement by Sponsor:**

REP. CARNEY said this bill was an act authorizing a landlord or a tenant to terminate a tenancy at any time by giving at least three days' notice, in writing, to the other party if the other party has threatened the physical safety or has threatened to harm the property of the other party and the threat is on record with a law enforcement agency.

***{Tape: 1; Side: A; Approx. Time Counter: 20 - 38}***

**Proponents' Testimony:**

Martha Hendrickson, told of an experience she had with a tenant that threatened her and the result of the threat.

***{Tape: 1; Side: A; Approx. Time Counter: 39 - 137}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

REP. BOOKOUT-REINICKE told REP. CARNEY her concern. She asked REP. CARNEY if she thought there should be a stipulation in this bill regarding the intentions of the landlord. REP. CARNEY said a stipulation could be put into the rental agreement and would point out the intention to the new renter when the agreement was signed. If something happened, this could be used as a tool to encourage the tenant to leave the premises. The landlord would have some way of doing something about the situation.

***{Tape: 1; Side: A; Approx. Time Counter: 142 - 165}***

REP. MENDENHALL asked REP. CARNEY if his concern was in the clause about tenants getting out of a lease. REP. CARNEY said any law could be manipulated and it could depend on an eye witness or someone whose testimony could be believed.

***{Tape: 1; Side: A; Approx. Time Counter: 163 - 189}***

**REP. MAEDJE** asked **REP. CARNEY** if an amendment could be added to stipulate that the threat, if verbal or by video tape could suffice. **REP. CARNEY** said this would probably be impossible because a landlord would probably not have a camera there during the altercation and she didn't feel that a irate tenant would perform for a camera.

*{Tape: 1; Side: A; Approx. Time Counter: 190 - 207}*

**REP. MORGAN** asked **REP. CARNEY** if an amendment could be inserted stipulating that law enforcement had been contacted. **REP. CARNEY** said this sounded like something that would be feasible. There would then be a record of the threat.

*{Tape: 1; Side: A; Approx. Time Counter: 208 - 222}*

**REP. MENDENHALL** questioned the three-day notice. **REP. CARNEY** said this referred to a landlord giving notice to a tenant in ordinary circumstances. It would not apply if the question were to vacate the housing in three days.

*{Tape: 1; Side: A; Approx. Time Counter: 223 - 254}*

**Closing By Sponsor:**

The sponsor closed.

*{Tape: 1; Side: A; Approx. Time Counter: 254 - 255}*

**HEARING ON HB 323**

**Sponsor:** **REP. LARRY JENT, HD 29, Bozeman**

**Opening Statement by Sponsor:**

**REP. JENT** said this bill was an act revising laws governing registered marks and trademarks to conform to recent changes in the Model Act; defining the terms abandoned; dilution and use; revising the definitions of service mark and trademark; revising the content of the application for registration; revising requirements for the filing of applications, revising the requirements for certificates of registration; revising the duration and renewal of certificates of registration; revising laws governing assignments and change of name; revising laws governing cancellation of registration; replacing the statutory list of classifications of goods and services with rules adopted

by the Secretary of State to conform to classifications adopted by the U.S. Patent & Trademark Office.

***{Tape: 1; Side: A; Approx. Time Counter: 255 - 430}***

**Proponents' Testimony:**

**Bob Griffen, Attorney at Law, Crowley Law Firm, Billings,** said he was a trademark practitioner. He said the primary focus of this bill is to provide remedies in protections for trademark owners that otherwise would not be available to them unless they registered at the federal level.

***{Tape: 1; Side: A; Approx. Time Counter: 431 - 500}***

**Brad Griffen, Montana Retail Association, Montana Restaurant Association,** said they support the bill for all the reasons which have already been stated.

***{Tape: 1; Side: B; Approx. Time Counter: 1 - 9}***

**Opponents' Testimony:** None

**Informational Testimony:**

**Pat Haffey, Deputy for Business Services, Secretary of State's Office,** said they would have no problem implementing the adjustments that are being made to this statute. It will be beneficial to small businesses and large businesses.

***{Tape: 1; Side: B; Approx. Time Counter: 14 - 21}***

**Questions from Committee Members and Responses:**

**REP. MORGAN** questioned the patent trade and the reference to the federal adaptation. **REP. JENT** said the classification of goods and services must conform to the classification adopted by the U.S. Patent and Trademark Office.

***{Tape: 1; Side: B; Approx. Time Counter: 22 - 36}***

**REP. BITNEY** asked what occurred when similar names are used. **REP. JENT** said if they are deceptively similar and the Federal Trade Laws determine if they are similar. **Mr. Griffen** said the state registration provides notice to anyone using similar names. They cannot stop anyone from using a similar name. Ultimately, the decision is answered in court. Courts look at a number of factors.

***{Tape: 1; Side: B; Approx. Time Counter: 37 - 79}***

**REP. GALLIK** questioned domain name registration. **Mr. Griffen** said federal law is probably going to preempt.

***{Tape: 1; Side: B; Approx. Time Counter: 80 - 100}***

**REP. GALVIN-HALCRO** asked if there should be a grace period following the expiration date allowing them to get their fee paid. **REP. JENT** said he was comfortable with the way the bill was written.

***{Tape: 1; Side: B; Approx. Time Counter: 101 - 150}***

**REP. MENDENHALL** asked what the standard practice was for fees under remedies. **Mr. Griffen** said they charge on an hourly basis. It is possible a contingency fee may be charged also.

***{Tape: 1; Side: B; Approx. Time Counter: 151 - 176}***

**Closing By Sponsor:**

The Sponsor closed.

***{Tape: 1; Side: B; Approx. Time Counter: 176 - 187}***

**HEARING ON HB 331**

**Sponsor:** **REP. STEVE GALLUS, HD 35, Butte**

**Opening Statement by Sponsor:**

**REP. GALLUS** said this bill was an act clarifying criminal offenses relating to theft of rented or leased personal property; changing the time after which theft for failure to return or pay for rented or leased personal property occurs from 48 hours after the rental payment or the return of the property is due two business days after the rental payment or the return of the property is due.

**EXHIBIT (buh12a01)**

***{Tape: 1; Side: B; Approx. Time Counter: 187 - 240}***

**Proponents' Testimony:**

**Roland Schumacker, ABC Rental, Bozeman**, said as the owner of six rental stores, collection is one of the biggest problems. The problem arises when people return things late and do not always pay them.

***{Tape: 1; Side: B; Approx. Time Counter: 241 - 299}***

**Patty Scott, East Helena Rental**, said they started their business six years ago from the ground up. It has been a great learning experience. Their new technique is to get a credit card number or a check in the amount of the rental. By implementing the changes in the current law, it would give the dealers a little more leverage.

***{Tape: 1; Side: B; Approx. Time Counter: 300 - 331}***

**Carl Schwietzer, Montana Rental Association**, said there are some people who just plain steal. He indicated he had never had a problem when renting. Perhaps there should be a minimum amount paid at the time of the rental.

***{Tape: 1; Side: B; Approx. Time Counter: 332 - 398}***

**Don Jacques, A-1 Rentals and Party Plus**, said he agreed with previous testimony.

***{Tape: 1; Side: B; Approx. Time Counter: 399 - 436}***

**Clyde Plumb, High Country Rental, Livingston**, said he supported this bill.

***{Tape: 1; Side: B; Approx. Time Counter: 437 - 473}***

**Brad Griffen, Montana Equipment Dealers Association**, said they urged concurrence on this bill.

***{Tape: 1; Side: B; Approx. Time Counter: 474 - 485}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. WEISS** said most rental places required a copy of a driver's license. He asked if there is a legal recourse. **REP. GALLUS**

said it was a language change. It is a crime now. It could be dealt with in a civil manner. This bill may prevent the actual crime from happening in the first place if these business centers could put a sign in their rental place to indicate if the charge is in excess of \$1,000, there is a penalty, even incarceration.

***{Tape: 2; Side: A; Approx. Time Counter: 1 - 13}***

**REP. GALLIK** requested information on the time frame. **REP. GALLUS** said there could possibly be an amendment drafted.

***{Tape: 2; Side: A; Approx. Time Counter: 14 - 129}***

**REP. BITNEY** asked **REP. GALLUS** about the "paid within two days" and he said the customer would probably sign a contract stating the two-day arrangement. He then asked how a judgment is obtained; **REP. GALLUS** said it was a normal criminal act.

***{Tape: 2; Side: A; Approx. Time Counter: 130 - 172}***

**REP. MORGAN** asked **Ms. Scott** why they could not have a sign posted in the business indicating that failure to pay for the time rented will result in action handled in small claims court. **Ms. Scott** said on all of their contracts there is a synopsis of this section stated right on the contract.

***{Tape: 2; Side: A; Approx. Time Counter: 173 - 254}***

**Closing By Sponsor:**

The sponsor closed.

***{Tape: 2; Side: A; Approx. Time Counter: 254 - 269}***

#### **HEARING ON HB 338**

**Sponsor:** **REP. JIM KEANE, HD 36, Butte**

**Opening Statement by Sponsor:**

**REP. KEANE** said this bill was an act increasing the length of time for which an individual is eligible for unemployment insurance benefits to 28 weeks; revising the ratios used to calculate unemployment insurance contribution rates; increasing the maximum weekly benefit amount to 66.5 percent of the average weekly wage.

**{Tape: 2; Side: A; Approx. Time Counter: 270 - 401}**

**Proponents' Testimony:**

**Jerry Driscoll, Montana State AFL-CIO**, said there is over \$10 million going into the State Fund being paid out every year. They are in the lowest possible schedule. If the Economic Development Office is successful, the total wages in the state is slightly over \$21 billion. If the amount were to raise to \$25 billion, they would raise their own taxes. Unemployment benefits are 1% of the annual wage or 1.9% of the best two quarters of wages is the determining factor for a benefit amount and not to exceed 63% of the state's average weekly wage. This bill would raise that amount to 66% of the average weekly wage. It would put money into the economy.

**{Tape: 2; Side: A; Approx. Time Counter: 401 - 485}**

**J.D. Lynch, Montana State Building Trades**, said this bill will aide the people in dire need from being unemployed because of lay offs. It would also add to the economy of the state.

**{Tape: 2; Side: A; Approx. Time Counter: 485 - 500}**

**Bob Pavlovich, International Union of Electrical Workers 233**, said they concur with previous testimony. The extra two weeks would help the workers in the state for benefits.

**{Tape: 2; Side: A; Approx. Time Counter: 501 - 512}**

**Don Judge, Teamsters Union Local 190**, provided written testimony.  
**EXHIBIT** (buh12a02)

**{Tape: 2; Side: A; Approx. Time Counter: 513 - 515}**

**Opponents' Testimony:**

**Riley Johnson, National Federation of Independent Business**, said they represented the small employers of the state. The employers do not oppose providing good benefits for the unemployed. Employers of Montana felt this unemployment fund is a trust. The employers pay into the trust for the benefit of their employees. There is a reserve of 15 months now. The federation is not certain where this fund is. He requested this bill be put aside. If the wrong decision is made, the employers are going to pay the bill.

**{Tape: 2; Side: B; Approx. Time Counter: 1 - 46}**



**Shawn Bubb, Director of Insurance, Montana School Boards**

**Association**, said they managed the largest self-insurance program for unemployment insurance which represents the public school system. The impact is going to be felt on this program. Knowing the financial condition of the school districts, their group opposes this bill on those ideas.

*{Tape: 2; Side: B; Approx. Time Counter: 47 - 74}*

**Aiden Miere, Montana Chamber of Commerce**, said their organization wanted to be certain there is enough money in the trust to take care of these changes.

*{Tape: 2; Side: B; Approx. Time Counter: 48 - 81}*

**Informational Testimony:**

**Keith Kelly, Administrator, Unemployment Insurance Division, Department of Labor & Industry**, said they were neither an opponent or proponent of this bill. They are here to provide technical information should those questions be raised.

*{Tape: 2; Side: B; Approx. Time Counter: 82 - 90}*

**Questions from Committee Members and Responses:**

**REP. GALVIN-HALCRO** asked Mr. Driscoll how the fund was brought back from the deficit. **Mr. Driscoll** said by not allowing people to draw unemployment benefits if they relocated to another area. She then asked if anyone's rates were increased because the fund was not sound. **Mr. Driscoll** said these people were at a schedule 10. Now is the lowest possible rate a person may collect on unemployment benefits.

*{Tape: 2; Side: B; Approx. Time Counter: 90 - 148}*

**REP. MATTHEWS** asked when the study is going to be completed. **Mr. Riley** said the study was commissioned just before the session and the completion was to be done by February 15th.

*{Tape: 2; Side: B; Approx. Time Counter: 128 - 162}*

**CHAIRMAN MCKENNEY** asked Mr. Kelly about the new part of the bill. When a spouse relocates, can unemployment benefits be paid to a spouse who relocates with her husband? He asked how the relocation to another area is determined. **Mr. Kelly** said it is determined by the Quick to Follow Clause.

***{Tape: 2; Side: B; Approx. Time Counter: 163 - 187}***

**REP. BERGREN** asked Mr. Driscoll about the concerns of the School Boards Association regarding increases. **Mr. Driscoll** said people working in schools are exempt and they may not draw unemployment. If a teacher has a contract for the forthcoming year, or a support staff person, if they have a reasonable expectation of being employed during the school year, they cannot draw unemployment. The only people who may draw unemployment are those who are actually told their jobs will not be available the next term. Schools and all government agencies have a choice of paying the government rate to the Unemployment Fund or directly reimbursing the Fund. He said there would be no effect to the schools on this bill.

***{Tape: 2; Side: B; Approx. Time Counter: 187 - 216}***

**Closing By Sponsor:**

The sponsor closed.

***{Tape: 2; Side: B; Approx. Time Counter: 192 - 252}***

**EXECUTIVE ACTION ON HB 285**

***{Tape: 3; Side: A; Approx. Time Counter: 1 - 45}***

**Motion:** **REP. GALLIK** moved **HB 285 DO PASS.**

**Motion:** **REP. GALLIK** moved **HB 285 AMENDMENTS.**

**Discussion:**

**REP. GALLIK** explained the amendments.

**REP. FRITZ** spoke on the relationship with recruiters and schools.

**REP. LAWSON** said he favored the amendment.

**CHAIRMAN MCKENNEY** said he favored the amendment.

**Vote:** Motion carried on **HB 285 AMENDMENT** which passed 16-2 with **REPS. FRITZ** and **GALVIN-HALCRO** voting no.

**Motion/Vote:** **REP. GALLIK** moved **HB 285 DO PASS AS AMENDED.**

Motion carried 16-2 with **REPS. FRITZ** and **GALVIN-HALCRO** voting no.

EXECUTIVE ACTION ON HB 196

*{Tape: 3; Side: A; Approx. Time Counter: 47 - 172}*

Motion: REP. LAWSON moved HB 196 DO PASS.

Motion: REP. LAWSON moved HB 196 AMENDMENTS.

Discussion:

Mr. Campbell explained the amendments.

REP. BITNEY said there were several more amendments which were added by request of the department.

Vote: Motion carried on HB 196 AMENDMENTS. Motion carried 17-1 with REP. MATTHEWS voting no.

Motion: REP. BITNEY moved HB 196 BE AMENDED on effective date.

Vote: Motion carried on technical amendment 18-0.

Motion/Vote: REP. BITNEY moved HB 196 DO PASS AS AMENDED. Motion carried 17-1 with REP. MATTHEWS voting no.

CHAIRMAN MCKENNEY requested a report from REP. BITNEY regarding HB 130. REP. BITNEY said he was awaiting an amendment from the insurance commissioner and will be receiving that today.

EXECUTIVE ACTION ON HB 271

*{Tape: 3; Side: A; Approx. Time Counter: 184 - Tape: 3; Side: B: Approx. Time Counter: 198}*

Motion: REP. GALLIK moved HB 271 DO PASS.

Motion: REP. GALLIK moved HB 271 BE AMENDED.

Discussion:

REP. GALLIK explained the amendments.

Vote: Motion carried on HB 271 AMENDMENTS 18-0.

Motion: REP. GALLIK moved that HB 271 DO PASS AS AMENDED.

**Discussion:**

**REPS. MENDENHALL, MAEDJE, McKENNEY** stated they opposed the amendment.

**REPS. KEANE** and **GALLIK** stated they supported the amendment.

**Vote:** Motion failed 9-9 with **REPS. KEANE, BERGREN, FRITZ, GALLIK, GALVIN-HALCRO, LAWSON, MATTHEWS, WEISS, and WILSON** voting yes by roll call vote.

**Motion/Vote:** **REP. LAWSON** moved **HB 271 BE TABLED**. Motion failed 9-9 with **REPS. STEINBEISSER, BITNEY, BOOKOUT-REINICKE, HAWK, LAWSON, MAEDJE, MENDENHALL, MORGAN, and ROME** voting yes by roll call vote.

**REP. GALLIK** said he would like to have this bill debated on the House floor.

**CHAIRMAN McKENNEY** stated that with all of the side conversations going on he requested a re-vote on this bill.

**Vote:** A re-vote was taken to table **HB 271**. Motion carried 10-8 with **REPS. KEANE, BERGREN, FRITZ, GALLIK, GALVIN-HALCRO, MATTHEWS, WEISS, WILSON** voting no by roll call vote.

**EXECUTIVE ACTION ON HB 314**

*{Tape: 3; Side: B; Approx. Time Counter: 142 - 500}*

**Motion:** **REP. MORGAN** moved **DO PASS**.

**Discussion:**

**REPS. STEINBEISSER and BOOKOUT-REINICKE** said they opposed this bill.

**REP. BITNEY** said this bill would send the wrong message to people visiting our state.

**REP. MORGAN** said in response to Rep. Bitney, the recreational vehicle owners are the not the people being fined \$500, it is the business who does not adhere to the regulations. She said it was not a Wal-Mart bill. If a campground was to put a restaurant and a sports bar on their party, which they may do. It levels the playing field.

Vote: A roll call vote was taken which HB 314 DO PASS failed with REPS. GALLIK, GALVIN-HALCRO, MATTHEWS, MORGAN, WEISS, and WILSON voting yes.

Motion/Vote: REP. MORGAN moved HB 314 BE TABLED. A reversal of the previous vote was accepted. Motion passed 12-6 with REPS. GALLIK, GALVIN-HALCRO, MATTHEWS, MORGAN, WEISS, and WILSON voting no.

**ADJOURNMENT**

Adjournment: 11:30 A.M.

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REP. JOE MCKENNEY, Chairman

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ALBERTA STRACHAN, Secretary

JM/AS

**EXHIBIT** (buh12aad)